

## SECTION VI

### CONTRACTUAL PROVISIONS

6.1. If any Participant determines that a Contract or Contracts are necessary to fulfill its responsibilities under Section III (Scope of Work), that Participant will contract in accordance with its respective national laws, regulations and procedures.

6.2. When a Participant individually contracts to perform a task under this MOU, it will be responsible for its own Contracts and no other Participant will be subject to any cost or liability arising from such Contracts without its prior written consent.

6.3. Each Participant will negotiate to obtain the rights to use and disclose Project Information required by the Section VIII (Disclosure and Use of Project Information). Each Participant will insert into its Contracts for this Project (and require Contractors to insert in subcontracts) suitable provisions to satisfy the requirements of this MOU, including but not limited to Sections XI (Security), Section VIII (Disclosure and Use of Project Information), Section IX (Third Party Sales and Transfers), and Section XII (Controlled Unclassified Information). During such Contract process, each Participant will advise prospective Contractors of their obligation to notify that Participant immediately if they are subject to any license or agreement that will restrict the Participant's freedom to disclose Project Information or permit its use.

6.4. In the event a Participant is unable to secure adequate rights to use and disclose Project Information as required by the Section VIII (Disclosure and Use of Project Information) or is notified by Contractors or potential Contractors of any restrictions on the Disclosure and Use of Project Information, that Participant will notify the other Participants of the restrictions, and if necessary, the SC will promptly consult with a view towards continuation of the Project on a modified basis.

## SECTION VII

### FINANCIAL PROVISIONS

7.1. Each Participant will fund the full extent of its fair share in this Project and will receive a fair share of the results of the Project in accordance with the provisions of this MOU.

7.2. There will be no common fund for this Project. The Participants will perform, or have performed, the work specified in Section III (Scope of Work) and will fulfill all responsibilities under this MOU within the contributions specified below:

<u>Participant</u>	<u>National Contribution in National Currency</u>	<u>Contribution in NAU</u>	<u>Contribution in Euros</u>
Canada	4.0 Mill. CA\$	692,042	
France	10.0 Mill. FF	440,335	1.524Mill.
Germany	4.9 Mill. DM	723,673	2.505Mill.
Italy	3.6 Bill. Lira	537,120	1.858Mill.
The Netherlands	1.5 Mill. GL	182,075	0.681Mill.
Norway	7.5 Mill. NOK	240,500	
United Kingdom	1.0 Mill. UK£	440,529	
United States	3.5 Mill. US\$	934,829	
Total Cost		4,191,103	

For Participants other than the German Participant, the above contributions include Contract costs and costs incurred by the Participants for employee salaries, employee travel costs, and equipment. The contributions by the German Participant include only Contract costs. NATO Accounting Unit (NAU) estimates are provided for comparison purposes only. Euro figures are provided for those Participants planning conversion to the Euro.

7.3. Any costs for work outside the scope of this MOU will be borne entirely by the Participant incurring such costs and are not included in that Participant's contributions described in paragraph 7.2.

7.4. If a Participant is not able to meet its total contribution, in whole or in part, as detailed in paragraph 7.2, it will promptly notify the SC. If a Participant notifies the SC that it is terminating or reducing its funding for this Project, all Participants will immediately consult with a view towards continuation on a changed or reduced basis. If this is not acceptable to all Participants then the provisions of the Section XVIII (Amendment, Withdrawal and Termination) will apply.

## SECTION VIII

### DISCLOSURE AND USE OF PROJECT INFORMATION

#### 8.1. General

8.1.1. The Participants recognize that successful collaboration depends on full and prompt exchange of information necessary for carrying out this Project. The Participants intend to acquire sufficient Project Information and rights to use such information to accomplish the objectives of the Project. The nature and amount of Project Information to be acquired will be consistent with Section II (Objective) and Section III (Scope of Work).

#### 8.2. Government Project Foreground Information

8.2.1. Disclosure: Government Project Foreground Information will be disclosed without charge to all Participants.

8.2.2. Use: Each Participant may use, or have used, all Government Project Foreground Information without charge for Defense Purposes. The Participant generating Government Project Foreground Information will retain all its rights thereto. If a Participant intends to use any Government Project Foreground Information in a sale or other transfer to a Third Party, however, the provisions of Section IX (Third Party Sales and Transfers) of this MOU will also apply.

#### 8.3. Government Project Background Information

8.3.1. Disclosure: Each Participant, upon request, will disclose without charge to the other Participants any relevant Government Project Background Information, provided that:

8.3.1.1. such Government Project Background Information is necessary to or useful in the Project, with the Participant in possession of the information determining whether it is "necessary to" or "useful in" the Project;

8.3.1.2. such Government Project Background Information may be made available without incurring liability to holders of proprietary rights; and

8.3.1.3. disclosure is consistent with national disclosure policies and regulations of the furnishing Participant.

8.3.2. Use: Government Project Background Information disclosed by one Participant to the other Participants may be used without charge by the other Participants for Project purposes only; however, the furnishing Participant will retain all its rights with respect to such Government Project Background Information.

#### 8.4. Contractor Project Foreground Information

8.4.1. Disclosure: Contractor Project Foreground Information will be disclosed without charge to all Participants.

8.4.2. Use: Each Participant may use, or have used, without charge for Defense Purposes all Contractor Project Foreground Information. The furnishing Participant will retain rights of use thereto in accordance with the applicable Contract(s). If a Participant intends to use any Contractor Project Foreground Information in a sale or other transfer to a Third Party, the provisions of Section IX (Third Party Sales and Transfers) of this MOU will also apply.

#### 8.5. Contractor Project Background Information

8.5.1. Disclosure: Any relevant Contractor Project Background Information (including information subject to proprietary rights) will be made available to the other Participants provided the following provisions are met:

8.5.1.1. such Contractor Project Background Information is necessary to or useful in the Project, with the Participant in possession of the information determining whether it is "necessary to" or "useful in" the Project;

8.5.1.2. such Contractor Project Background Information may be made available without incurring liability to holders of proprietary rights; and

8.5.1.3. disclosure is consistent with national disclosure policies and regulations of the furnishing Participant.

8.5.2. Use: Contractor Project Background Information furnished by one Participant's Contractors and disclosed to the other Participants may be used without charge by the other Participants for Project purposes only, and may be

subject to further restrictions by holders of proprietary rights; however, the furnishing Participant will retain all its rights with respect to such Project Background Information.

#### 8.6. Alternative Uses of Project Information

8.6.1. Any Project Background Information provided by one Participant will be used by the other Participants only for the purposes described in this MOU, unless otherwise consented to in writing by the providing Participant.

8.6.2. The prior written consent of each Participant will be required for the use of Project Foreground Information for purposes other than those provided for in this MOU.

#### 8.7. Proprietary Project Information

8.7.1. All Project Information subject to proprietary interests will be identified and marked, and it will be handled as Controlled Unclassified Information.

8.7.2. The provisions of the NATO Agreement on the Communication of Technical Information for Defence Purposes, done at Brussels on 19 October 1970, and the Implementing Procedures for the NATO Agreement on the Communication of Technical Information for Defence Purposes, approved by the North Atlantic Council on 1 January 1971, will apply to proprietary Project Information related to this MOU.

#### 8.8. Patents

8.8.1. The Participants anticipate that no Project Inventions will be formulated or made in the course of work performed under this Project. However, in the unlikely event that a Project Invention is so formulated or made, the Participants will amend this MOU to add provisions governing the responsibilities and benefits of the Participants as to Project Inventions and Patents. No Participant will make an application for a Patent for a Project Invention until the amendment to the MOU enters into effect.

## SECTION IX

### THIRD PARTY SALES AND TRANSFERS

9.1 Except to the extent permitted in paragraph 9.2, the Participants will not sell, transfer title to, disclose, or transfer possession of Project Foreground Information to any Third Party without the prior written consent of all the Participants. Furthermore, the Participants will not permit any such sale, disclosure, or transfer, including by the owner, without the prior written consent of all the Participants. Such consent will not be given unless the government of the intended recipient consents in writing with the Participants that it will:

9.1.1. not retransfer, or permit the further retransfer of, any information provided; and

9.1.2. use, or permit the use of, the information provided only for the purposes specified by the Participants.

9.2. Each Participant will retain the right to sell, transfer title to, disclose, or transfer possession of Project Foreground Information:

9.2.1. which is generated solely by either that Participant or that Participant's Contractors; and

9.2.2. whose generation, test, or evaluation has not relied, in any way, on the Project Foreground Information, Project Background Information, or Project Equipment provided by another Participant.

9.3. In the event questions arise as to whether the Project Foreground Information that a Participant intends to sell, transfer title to, disclose, or transfer possession of to a Third Party is within the scope of paragraph 9.2., the matter will be brought to the immediate attention of the SC. The Participants will resolve the matter prior to any sale or other transfer of such Project Foreground Information to a Third Party.

9.4. A Participant will not sell, transfer title to, disclose, or transfer possession of Project Equipment or Project Background Information provided by another Participant to any Third Party without the prior written consent of the Participant which provided such equipment or information. The providing Participant will be solely responsible for authorizing such transfers and, as applicable, specifying the method and conditions for implementing such transfers.

## SECTION X

### TAXES, CUSTOMS DUTIES AND SIMILAR CHARGES

10.1. Import and export taxes, customs duties and similar charges will be administered in accordance with each Participant's respective laws and regulations. Insofar as existing national laws and regulations permit, and in any event to the extent required by applicable international agreements, the Participants will endeavor to ensure that readily identifiable taxes, duties and similar charges on imports and exports are not imposed in connection with work carried out under the Project.

10.2. If a Participant is unable to waive readily identifiable taxes, customs duties, and similar charges, the cost of such charges will be paid by the Participant that imposed them over and above that Participant's shared costs of the Project.

10.3. If, in order to apply European Union (EU) regulations, it is necessary to levy duties, then these will be met by the EU member end recipient. To this end, parts of components of the equipment coming from outside the EU will proceed to their final destination accompanied by the relevant customs document enabling settlement of duties to take place. The duties will be levied as a cost over and above that Participant's shared cost of the Project.



## SECTION XI

### SECURITY

11.1. All Classified Information and material provided or generated in connection with this MOU will be stored, handled, transmitted and safeguarded in accordance with the Participants' national security laws and regulations, to the extent that they provide a degree of protection no less stringent than that provided for NATO classified information as detailed in the document "Security Within the North Atlantic Treaty Organization" C-M(55)15(Final), of 15 October 1997 and its subsequent amendments.

11.2. Classified Information will be transferred only through official government-to-government channels or through channels approved by the Designated Security Authorities (DSAs) of the Participants. Such Classified Information and material will bear the level of classification, denote the country of origin, the provisions of release, and the fact that the information relates to this MOU.

11.3. Each Participant will ensure in a manner consistent with its laws and regulations that Classified Information provided or generated pursuant to this MOU is protected from further disclosure, except as permitted by paragraph 11.9, unless the other Participants will consent to such disclosure. Accordingly, each Participant will ensure that:

11.3.1. The recipient will not release the Classified Information to any Third Party except as permitted under procedures described in Section IX (Third Party Sales and Transfers).

11.3.2. The recipient will not use the Classified Information for other than the purposes provided for in this MOU.

11.3.3. The recipient will comply with any distribution and access restrictions on information that is provided under this MOU.

11.4. The Participants will investigate all cases in which it is known or where there are grounds for suspecting that Classified Information provided or generated pursuant to this MOU has been lost or disclosed to unauthorized persons. Each Participant will also promptly and fully inform the other Participants of the details of such occurrences, and of the final results of the investigation and of the corrective action taken to preclude recurrences.

11.5. The SC will prepare a Project Security Instruction and a Classification Guide for the Project. The Project Security Instruction and the Classification Guide will describe the methods by which Project Information will be classified, marked, used, transmitted, and safeguarded. The Instruction and Classification Guide will be

developed by the SC within three months after this MOU enters into effect. They will be reviewed and forwarded to the Participants' DSA's for approval and will be applicable to all government and Contractor personnel participating in the project. The Classification Guide will be subject to regular review and revision with the aim of downgrading the classification whenever this is appropriate. The Project Security Instruction and the Classification Guide will be approved by the appropriate DSA prior to the transfer of any Classified Information or Controlled Unclassified Information.

11.6. The DSA of the Participant in which a classified Contract is awarded will assume responsibility for administering within its territory security measures for the protection of the Classified Information, in accordance with its laws and regulations. Prior to the release to a Contractor, prospective Contractor, or Subcontractor of any Classified Information received under this MOU, the DSAs will:

11.6.1. Ensure that such Contractor, prospective Contractor or Subcontractor and their facilities have the capability to protect the Classified Information adequately.

11.6.2. Grant a security clearance to the facilities, if appropriate.

11.6.3. Grant a security clearance for all personnel whose duties require access to Classified Information, if appropriate.

11.6.4. Ensure that all persons having access to the Classified Information are informed of their responsibilities to protect the Classified Information in accordance with national security laws and regulations, and the provisions of this MOU.

11.6.5. Carry out periodic security inspections of cleared facilities to ensure that the Classified Information is protected.

11.6.6. Ensure that access to the Classified Information is limited to those persons who have a need-to-know for purposes of this MOU.

11.7. Contractors, prospective Contractors, or Subcontractors which are determined by the DSAs to be under financial, administrative, policy or management control of nationals or entities of a Third Party, may participate in a Contract or subcontract requiring access to Classified Information provided or generated pursuant to this MOU only when enforceable measures are in effect to ensure that nationals or entities of a Third Party will not have access to Classified Information. If enforceable measures are not in effect to preclude access by nationals or other entities of a Third Party, the other Participants will be consulted for approval prior to permitting such access.

11.8. For any facility wherein Classified Information or material is to be used, the responsible Participant or Contractor will approve the appointment of a person or persons to exercise effectively the responsibilities for safeguarding at such facility the information or material pertaining to this MOU. These officials will be responsible for limiting access to Classified Information or material involved in this MOU to those persons who have been properly approved for access and have a need-to-know.

11.9. Each Participant will ensure that access to Classified Information is limited to those persons who possess the requisite security clearance and have a specific need for access to the Classified Information in order to participate in the Project.

11.10. Information provided or generated pursuant to this MOU may be classified as high as CONFIDENTIAL. The existence of this MOU is UNCLASSIFIED and the contents are UNCLASSIFIED.

## SECTION XII CONTROLLED UNCLASSIFIED INFORMATION

12.1. Except as otherwise provided in this MOU or as authorized in writing by the originating Participant, Controlled Unclassified Information provided or generated pursuant to this MOU will be controlled as follows:

12.1.1. Such information will be used only for the purposes authorized for use of Project Information as specified in Section VIII (Disclosure and Use of Project Information).

12.1.2. Access to such information will be limited to personnel whose access is necessary for the permitted use under the paragraph 12.1.1. and will be subject to the provisions of Section IX (Third Party Sales and Transfers).

12.1.3. Each Participant will take all lawful steps, which may include national classification, available to it to keep such information free from further disclosure, (including requests under any legislative provisions), except as provided for in subparagraph 12.1.2., unless the originating Participant consents to such disclosure. In the event of unauthorized disclosure, or if it becomes probable that the information may have to be further disclosed under any legislative provision, immediate notification will be given to the originating Participant.

12.2. To assist in providing the appropriate controls, the originating Participant will ensure that its Controlled Unclassified Information is appropriately marked. The Participants will decide, in advance and in writing, on the markings to be placed on the Controlled Unclassified Information. The appropriate markings will be defined in the Project Security Instruction.

12.3. Controlled Unclassified Information provided or generated pursuant to this MOU will be handled in a manner that ensures control as provided for in Paragraph 12.1.

12.4. Prior to authorizing the release of Controlled Unclassified Information to Contractors, the Participants will ensure the Contractors are legally bound to control such information in accordance with the provisions of this Section.

SECTION XIII  
PROJECT EQUIPMENT

13.1. Each Participant may provide PE identified as being necessary for implementing the MOU to the other Participants. Such PE will remain the property of the providing Participant. A list of all PE provided by one Participant to another will be developed and maintained by the TLs and approved by the SC.

13.2. The receiving Participant will maintain any such PE in good order, repair and operable conditions, and return the items in as good condition as received, normal wear and tear excepted. The receiving Participant will pay the cost of damage (other than normal wear and tear) to or loss of PE.

13.3. All PE that is transferred will be used by the receiving Participant(s) only for the purposes set out in this MOU. In addition, in accordance with the Section IX (Third Party Sales and Transfers), PE will not be subsequently transferred to a Third Party without the prior written consent of the providing Participant.

13.4. PE transferred to one or more Participants under this MOU will be returned to the providing Participant prior to the withdrawal from, termination of, or expiration of this MOU or when the PE is no longer needed for the Project.